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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

UNITED STATES OF AMERICA,	)	No. CR 10-00130 DLJ
	)	
Plaintiff,	)	<del>[PROPOSED]</del> ORDER DETAINING
	)	DEFENDANT JUAN RAMIREZ-CRUZ
v.	)	
	)	
JUAN RAMIREZ-CRUZ,	)	Date: March 1, 2010
a/k/a "Juan Ramirez,"	)	Time: 10:00 a.m.
	)	Court: Hon. Laurel Beeler
Defendant.	)	

I. DETENTION ORDER

Defendant Juan Ramirez-Cruz is charged in a one-count indictment with illegally re-entering the United States, in violation of 8 U.S.C. §§ 1326(a) and (b). On February 26, 2010, the United States moved for Mr. Ramirez-Cruz's detention pursuant to 18 U.S.C. § 3142(f)(2)(A) (because there is a serious risk that the defendant will flee), and asked for a detention hearing, as permitted by 18 U.S.C. § 3142(f). Following a hearing under 18 U.S.C. § 3142(f), and considering the parties' proffers, Pretrial Services' report, and the factors set forth

1 in 18 U.S.C. § 3142(g), the Court detains Mr. Ramirez-Cruz as a serious risk of flight and finds  
2 that no condition or combination of conditions in 18 U.S.C. § 3142(c) will reasonably assure his  
3 appearance in this case. *See* 18 U.S.C. §§ 3142(e) and (f); *United States v. Motamedi*, 767 F.2d  
4 1403, 1406 (9th Cir. 1985).

5 Specifically, considering the factors in 18 U.S.C. § 3142(g), the Court notes that Mr.  
6 Ramirez-Cruz's criminal history includes two firearms convictions. Furthermore, Mr. Ramirez-  
7 Cruz is subject to an immigration detainer issued by Immigration and Customs Enforcement  
8 ("ICE") based on the facts alleged in the indictment: namely, that he re-entered the United States  
9 after having been removed pursuant to an order of removal. These facts, along with the lack of  
10 information about Mr. Ramirez-Cruz's ties to the community, raise concern about the risk of Mr.  
11 Ramirez-Cruz's flight and his ability to comply with any conditions of release that the Court  
12 might set. Accordingly, the Court finds that the government has established flight risk by a  
13 preponderance of the evidence.

14 Mr. Ramirez-Cruz did not request a full bail study at this time, such as an interview by  
15 Pretrial Services. *See* 18 U.S.C. § 3142(f) (a defendant has the right at a Section 3142(f)  
16 hearing, with the assistance of counsel, to testify, to present witnesses, to cross-examine adverse  
17 witnesses, and to present information by proffer or otherwise). Mr. Ramirez-Cruz expressly  
18 retained his right to raise any additional relevant information at a later hearing.

## 19 II. CONCLUSION

20 The Court detains Mr. Ramirez-Cruz as a serious flight risk. Because Mr. Ramirez-Cruz  
21 waived his right to present information under 18 U.S.C. § 3142(f) without prejudice to raising  
22 relevant information at a later hearing, the Court orders that the hearing may be reopened at Mr.  
23 Ramirez-Cruz's request at any future time.

24 Mr. Ramirez-Cruz is committed to the custody of the Attorney General or a designated  
25 representative for confinement in a corrections facility separate, to the extent practicable, from  
26 persons awaiting or serving sentences or held in custody pending appeal. *See* 18 U.S.C. §  
27 3142(i)(2). The defendant must be afforded a reasonable opportunity to consult privately with  
28 counsel. *See id.* § 3142(i)(3). On order of a court of the United States or on request of an

1 attorney for the government, the person in charge of the corrections facility must deliver the  
2 defendant to the United States Marshal for a court appearance. *See id.* § 3142(i)(4).

3 IT IS SO ORDERED.

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5  
6 DATED: March 3, 2010

  
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LAUREL BEELER  
United States Magistrate Judge